

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1747.01
COMPLAINT INVESTIGATOR: Steve Starbuck
DATE OF COMPLAINT: May 8, 2001
DATE OF REPORT: June 1, 2001
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: June 28, 2001

COMPLAINT ISSUES:

Whether the Richmond Community School Corporation violated:

511 IAC 7-25-5(e)(1) with regard to the school's alleged failure to ensure the case conference committee considered the results of an independent evaluation in determining the provision of a free appropriate public education to the student.

FINDINGS OF FACT:

1. The student is sixteen years old and attends the tenth grade. The student has not been determined to be in need of special education and related services.
2. The complainant, a psychologist, asserts that at a meeting convened on May 3, 2001, school personnel failed to consider a report he had written. The complainant states the student's parent informed him that school personnel would not consider the information in his report because he was not a medical doctor.
3. The director states the student has never been referred for an evaluation to determine eligibility for special education. The director reports the student has never been considered for, nor determined to be in need of, special education and related services as defined under Article 7. The student was determined eligible for Section 504 services at a conference convened on December 14, 2000. The May 3, 2001, conference was convened to review the student's service plan and to determine if any additional accommodations were needed. The committee determined additional input was needed from the student's physician prior to completing a revised Section 504 Alternative Learning Plan. The director reports the committee will reconvene upon receipt of the physician's recommendations.
4. The Division does not have the regulatory authority to conduct complaint investigations concerning alleged violations of Section 504 regulations. If a parent/guardian disagrees with the identification, evaluation, educational placement, or with the provisions of a free appropriate public education for his/her child pursuant to a Section 504 plan, the parent/guardian may make a written request for a hearing to the school's superintendent, indicating the specific reason(s) for the request. In addition, complaints of this nature are within the province of the Office for Civil Rights. Complaints may be filed with the Chicago office at:
Office for Civil Rights
U.S. Department of Education
Region V, Chicago

111 North Canal Street, Suite 1053
Chicago, Illinois 60606-7204

CONCLUSIONS:

1. Finding of Fact #3 reflects the student has never been determined eligible for special education. Finding of Fact #4 indicates the Division does not have the regulatory authority to conduct complaint investigations concerning alleged violations of Section 504 regulations. Because the student is not covered by the procedural safeguards as a student with a disability under Article 7, and because the Division does not have the authority to investigate alleged violations of Section 504 regulations, the issue of whether a violation of 511 IAC 7-25-5(e)(1) has occurred cannot be addressed through the Article 7 complaint investigation process.

The Department of Education, Division of Special Education, requires no corrective action based on the Findings of Fact and Conclusions listed above.

DATE REPORT COMPLETED: June 1, 2001